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FINJAN, INC.

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

FINJAN, INC., a Delaware Corporation,

Plaintiff,

v.

JUNIPER NETWORKS, INC., a Delaware Corporation,

Defendant.

Case No.: 3:17-cv-05659-WHA

**PLAINTIFF FINJAN, INC.'S NOTICE OF
MOTION AND MOTION FOR RELIEF
FROM JUDGMENT PURSUANT TO FED. R.
CIV. P. 60(B); MEMORANDUM OF POINTS
AND AUTHORITIES**

Date: May 9, 2019
Time: 8:00 a.m.
Courtroom: 12, 19th Floor
Before: Hon. William H. Alsup

REDACTED VERSION OF DOCUMENTS FILED UNDER SEAL

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NOTICE OF MOTION AND MOTION

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

NOTICE IS HEREBY GIVEN that on May 9, 2019, at 8:00 a.m., or as soon thereafter as counsel may be heard by the Honorable William Alsup in Courtroom 12, 19th Floor, located at 450 Golden Gate Avenue, San Francisco, California 94102, Plaintiff Finjan, Inc. (“Finjan”) will and hereby does move the Court for an order granting its motion for relief from judgment pursuant to Federal Rule of Procedure 60(b). This Motion is based on this Notice of Motion, the Memorandum of Points and Authorities, the trial record, the pleadings and papers on file, and any evidence and argument presented to the Court.

RELIEF REQUESTED

Pursuant to Federal Rule of Civil Procedure 60(b)(2)-(3), Finjan moves for relief from the jury verdict entered in this action on December 14, 2018 and this Court’s subsequent denial of Finjan’s Motion for Judgment as a Matter of Law on March 11, 2019 (Dkt. Nos. 333, 387, respectively), due to Juniper’s concealment of key evidence that proved that Sky ATP had a “database” as recited in Claim 10 of U.S. Patent No. 8,677,494 (“the ‘494 Patent”), which was the pivotal issue at the December 2018 trial. Juniper had no reasonable grounds to delay production of such information. Given this newly discovered evidence and Juniper’s discovery misconduct, a new trial should be ordered.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Finjan is entitled to relief from the jury verdict found on December 14, 2018 (Dkt. No. 333, “Verdict”) and this Court’s subsequent order denying Finjan’s Motion for Judgment as a Matter of Law on March 11, 2019 (Dkt. No. 387, “Order”) because Juniper concealed key evidence during discovery that proved that Sky ATP had a “database” as recited in Claim 10 of U.S. Patent No. 8,677,494 (“the ‘494 Patent”), which was the pivotal issue to be determined at the December 2018 trial (“the December trial”). Juniper’s concealment prevented both the Court and the jury from evaluating this key evidence of how and where Sky ATP satisfies the “database” element of Claim 10.

Specifically, Juniper withheld key, highly relevant and directly responsive technical documents regarding Joe Sandbox [REDACTED] that demonstrated that Joe Sandbox in Sky ATP uses a “database” to store the results of its analysis, as recited in Claim 10 of the ‘494 Patent. These documents directly refuted Juniper’s only non-infringement defense at the December trial and yet, Juniper has no explanation for why it produced these Joe Sandbox documents nearly two months *after* the December 2018 trial, knowing that such documents were critically important to the infringement case presented in the December 2018 trial.

Particularly troubling is the fact that Juniper has no excuse for its belated production, as Finjan sought this information over a year ago in discovery. In response to written discovery requests, Juniper explicitly represented in 2018 that it had completed its production of any documents relevant to Sky ATP, which is demonstrably false based on Juniper’s February 2019 production. Moreover, Juniper’s Sky ATP engineers testified at deposition that [REDACTED] [REDACTED].

Juniper’s inexcusable belated production of these key documents is precisely the type of newly discovered evidence contemplated by Rule 60, which warrants relief from judgment and an order for a new trial. Without this evidence, Finjan was severely prejudiced at trial, as this key evidence undermined Juniper’s sole non-infringement defense. Such conduct should not be tolerated.

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